

**REMARKS**

Reconsideration and allowance of this application are respectfully requested in light of the foregoing amendments and the following remarks.

**Claim Status**

Claims 1-13 are pending. New Claim 14 is added.

**Rejection**

Claims 1-7, 9, and 13 are rejected, obviousness type double patenting, in view of Peiffer 401. Claim 8 is rejected, obviousness type double patenting, in view of Peiffer 401 in further view of Funderburk or Peiffer 440. Claims 10-12 are rejected, obviousness type double patenting, in view of Peiffer 401 in view of Hibiya.

Applicant respectfully disagrees for the following reasons.

In obviousness type double patenting, claims are compared. MPEP 804 II B 1. The analysis for determining patentability parallels the guidelines for a Section 103(a) rejection.

MEPE 804 II B 1. Comparison of instant Claim 1 to Peiffer 401, the primary reference in each rejection, is set out below, focusing on the layer (c).

	<u>Invention</u>	<u>Peiffer 401</u>
gloss	< 100 (claim 1)	> 170 (spec, Table 3)
$R_a$	> 150 (claim 1)	$40 \leq R_a \leq 150$ (Claim 1)
gas flow	0-80s (claim 1)	< 140s (Claim 1)
haze	< 50 (claim 1)	< 12 (spec, Table 3)

Note that gloss and  $R_a$  do not overlap.

This difference is significant. The inventors state, at page 10, lines 29-31:

"Values ( $R_a$ ) below 150 nm adversely affect the degree of mattness of the surface..."

The instant invention is to a film with a specific optical character.

The question then becomes does Peiffer 401 suggest the modification? No, Peiffer 401 does not suggest the modification. Peiffer 401 specifically states that  $R_a$  values in the (c) layer adversely affect optical properties. Peiffer 401, column 4, lines 64-65. Peiffer 401 is directed to a transparent film. Peiffer 401, column 1, line 4. To modify Peiffer 401 as proposed is improper because it would destroy Peiffer 401's invention. MPEP 2143.01 (section citing *Gordon*). Therefore, Peiffer 401 does not suggest the invention.

Likewise, Funderburk, Peiffer 440, nor Hibiya do not suggest the invention. Funderburk is directed to improving adhesion of a metal layer to a polyester film. Peiffer 440 is also directed to improving adhesion of a metal layer to a polyester film. Hibiya is directed to a laminated polyester film containing a fluorescent agent. Nowhere do these references teach the instant invention.

Moreover, the proposition that the modification may be within the skill of the art is an insufficient basis for an obviousness rejection. MPEP 2143.01 (section citing *Levengood* and *Kotzab*). In this situation, Peiffer 401 describes a transparent, high gloss film ( $>170$ ) with a low haze ( $<3$ ), while the invention is a film with a low gloss ( $<100$ ) and high haze (between 35-50%). The only suggestion for the claimed film is the Instant Invention.

#### Conclusion

In view of the foregoing, Applicant respectfully requests an early Notice of Allowance in this application.

Respectfully submitted,



Klaus Schweitzer  
See attached Limited Recognition  
Under 37 CFR§10.9(b)

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